

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL



In the Matter of:	)	Docket HWCA 99/00 -4003
	)	
	)	
Long Beach Unified School	)	
District	)	CONSENT ORDER
2425 Webster Avenue	)	
Long Beach, California 90810	)	Health and Safety Code
EPA ID #CAR000059501	)	Section 25187
	)	
Respondent.	)	
_____	)	

The California Department of Toxic Substances Control  
(Department) and the Long Beach Unified School District  
(Respondent) enter into this Consent Order and agree as  
follows:

1. Respondent transports, handles, consolidates and  
stores off-site hazardous wastes at 2425 Webster Avenue, Long  
Beach, California 90810 (Site).

2. The Department inspected the Site on  
December 28, 1999.

3. The Department alleges the following violations:

3.1. Respondent violated Health and Safety Code(HSC)  
section 25201(a), in that on or about December 28, 1999,  
Respondent accepted off-site generated hazardous wastes and  
stored them on site without a permit or any grant of

authorization from the Department, to wit: hazardous waste paints, solvents, off-specification lab chemicals, and pesticide wastes collected from Long Beach Schools were stored on site.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to HSC section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. Respondent admits the violations described above.

#### SCHEDULE FOR COMPLIANCE

10. Respondent shall comply with the following:

10.1.1. Within ninety (90) days of the effective date of the Consent Order, Respondent shall apply to the Department for a new variance pursuant to 22 CCR, section 66260.210 in conjunction with HSC section 25143. Upon receiving

this Consent Order, Respondent shall arrange a pre-application meeting with Mr. David Wright, Chief of Permit Program Development Section, telephone (916) 322-0584. During this meeting, Respondent shall receive all the instructions concerning the steps to follow for a new variance. If a new variance is not approved within one hundred eighty (180) days of the Respondent's application for the new variance, Respondent shall immediately cease all hazardous waste activities that require an authorization from the Department.

Respondent may continue its hazardous waste operation pending a final decision on the new variance application if the operation is conducted in accordance with the requirements and conditions of the variance issued by the Department on October 23, 1997 (Attached Exhibit A).

10.1.2 Respondent hereby agrees to send the following employees to the California Compliance School Modules I through V:

Mr. Barry Z. Weinstein, Supervisor, Environmental Health and Safety.

Mr. Gregory J. Salichs, Environmental Health and Safety.

Mr. Terry Cormack, Environmental Health and Safety.

Attendance must be completed and Respondent must submit a Certificate of Satisfactory Completion to the Department within 185 days of the date of this Consent Order. If Respondent fails to submit the Certificate of Satisfactory Completion as required, the penalty of \$5,000.00 referenced in paragraph 11 of this Consent Order, is due and payable within 30 days after the expiration of the 185-day period. The 185-day period may be extended by the Department upon written request demonstrating good cause from Respondent.

10.2. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent to:

Carmelita Lampino  
Unit Chief  
Statewide Compliance Division  
Department of Toxic Substances Control  
5796 Corporate Avenue  
Cypress, California 90630

10.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

10.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

10.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) is creating an imminent or substantial endangerment to the health or welfare of people on the Site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.7. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting all areas containing hazardous wastes; taking photographs; inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and obtaining samples and conducting monitoring and other such tests as the Department may deem necessary. Respondent shall permit such persons to

inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

10.9. Sampling, Data, and Document Availability:

Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of three (3) years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of those documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to

destroying any documents prepared pursuant to this Consent Order.

10.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 12.3 in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

10.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.12. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will



grant the request and specify in writing a new compliance schedule.

#### PAYMENTS

11. Within thirty (30) days of the effective date of this Consent Order, Respondent shall pay the Department a total of \$3,780.00 in penalty. In addition, if Respondent fails to submit the Certificate of Satisfactory Completion as required and specified in paragraph 10.1.2 of this Consent Order, a penalty of \$5,000.00 is due and payable within 30 days after the expiration of the 185-day period allowed for completion of the course and submittal of the Certificate. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control  
Accounting Office  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Carmelita E. Lampino  
Unit Chief  
Statewide Compliance Division  
Department of Toxic Substances Control  
5796 Corporate Avenue  
Cypress, California 90630

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established

pursuant to HSC section 25360.1 and to pay all costs incurred by the Department in pursuing collection, including attorney's fees.

#### OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by HSC section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This Consent Order constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Consent Order.

Dated: 01/29/01                      Original signed by Tomio Nishimura  
Signature of Respondent's  
Representative

Dated: 01/29/01                  Tomio Nishimura, Chief Business and  
Financial Officer

Dated: 01/30/01                      Original signed by Nennet V. Alvarez  
Nennet Alvarez, Branch Chief  
Statewide Compliance Division  
Department of Toxic Substances Control